IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 6TH NOVEMBER 2006 / 15TH KARTHIKA 1928

WP(C).No. 24674 of 2004(K)

PETITIONER:

ALBERT.V.GEORGE, S/O.GEORGE,
VARIATH HOUSE, NO.6/255, VISHNUPURAM,
CHERANELLOOR, CHOCHIN - 34.

BY ADV. SRI.T.I.DANIEL
SRI.DILIP MOHAN

RESPONDENTS:
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1. THE STATE OF KERALA REP. BY THE
SECRETARY LOCAL ADMINISTRATIVE BODIES,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

2. THE COMMI9SSIONER, CORPORATION OF
COCHIN, CORPORATION OFFICER, ERNAKULAM.

3. THE SECRETARY, CORPORATION OF COCHIN,
CORPORATION OFFICE, ERNAKULAM.

4. THE CHAIRMAN, TAX COMMITTEE,
CORPORATION OF COHCIN, ERNAKULAM.

BY GOVERNMENT PLEADER , SRI.K.J.MOHAMMED ANSAR
SRI.K.ANAND, SC, CORPORATION OF COCHIN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC 24674/2004

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1: A PHOTOCOPY OF THE DOCUMENT DATED 12.04.2002 NO.123402002 OF THE SRO ERNAKULAM.

EXHIBIT P2: A PHOTOCOPY OF THE TAX NOTICE ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER DATED 03.01.1998.

EXHIBIT P3: A PHOTOCOPY OF the OBJECTION DATED 05.01.98 FILED BY THE PETITIONER.

EXHIBIT P4: A PHOTOCOPY OF THE APPEAL DATED 02.02.2001 FILED BY THE PREVIOUS OWNER OF THE BUILDING BEFORE THE 4TH RESPONDENT.

EXHIBIT P5: A PHOTOCOPY OF the ORDER DATED 20.04.2001 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.

ADDITIONAL EXHIBITS

ADDL.EXT.P6: A PHOTOCOPY OF THE RENT DATED 24.04.02 LEASED OUT TO ONE K.R.RAKESH BY THE PETITIONER.

ADDL.EXT.P7: A PHOTOCOPY OF THE RENT DEED DATED 20.03.2003 LEASE DOUT TO ONE K.R.RAKESH BY THE PETITIONER.

ADDL.EXT.P8: A PHOTOCOPY OF THE RENT DEED DATED 01.07.2004 LEASED OUT TO ONE K.R.RAKESH BY THE PETITIONER.

ADDL.EXT.P9: A PHOTOCOPY OF the NOTICE DATED 17.01.04 ISSUE DBY THE 3RD RESPONDENT IN THE NAME OF THE FORMER OWNER OF THE PETITIONER'S BUILDING.

ADDL.EXT.P10: A PHOTOCOPY OF THE REPRESENTATION DATED 04.05.2005 SUBMITTED BY THE PETITIONER TO THE 3RD RESPONDENT.

ADDL.EXT.P11: A PHOTOCOPY OF THE NOTICE ISSUED BY THE 3RD RESPONDENT TO THE PETITIONERS BUILDING DATED 24.11.05

ADDL.EXT.P12: PHOTOCOPY OF THE REMITTANCE RECEITP ISSED BY THE 3RD RESPONDENT ON 31.03.06 AN AMOUNT OF RS.24051/- INCLUDING LIBRARY CESS AND PENAL INTEREST.

ADDL.EXT.P13: PHOTOCOPY OF the REMITTANCE RECEITP ISSUED BY THE 3RD RESPONDENT ON 06.03.06 AN AMOUNT OF RS.24,778/- FOR THE PERIOD 98-99

ADDL.EXT.P14: PHOTOCOPY OF THE REMITTANCE RECEIPT ISSUED BY THE 3RD RESPONDENT ON 01.06.06 AN AMOUNT OF RS.83,726/-

ADDL.EXT.P15: PHOTOCOPY OF THE REMITTANCE RECEIPT ISSUED BY THE 3RD RESPONDENT ON 05.08.2006 AN AMOUNT OF RS.18,198/- FOR THE PERIOD 2005-06.

PIUS C.KURIAKOSE,J.

W.P.(C) NO.24674 OF 2004 K

Dated this the 6th day of November, 2006

J U D G M E N T

The petitioner who has come to have ownership over a building situated in Division No.47 and bearing No.1852 A from the Corporation of Cochin is aggrieved by assessment by the Corporation of his building to property tax. Relying on Exhibits P6 to P8 lease deeds executed by the petitioner with his tenant periodically the petitioner contends that the rent which he is actually getting was only Rs.3,000 in the year 2001 and presently the same is Rs.3,300/-. The original proposal by the corporation was to assess this building on the basis that the annual rental value of this building is Rs.1,20,000/- and Exhibit P2 is the order passed by the Corporation against Smt.Jessy Felix who only conveyed title to the petitioner as per Exhibit P1. Smt.Jessy Felix preferred an appeal to the Standing Committee for taxation and in appeal only the annual rental value was revised as Rs.75,000/- Even that revised annual rental value and the consequent tax revision according to the petitioner is on the high side.

2. A detailed counter affidavit has been filed by the

Corporation in which the legal contention raised is that Smt.Jessy Felix the petitioner's predecessor allowed Exhibit P5 appellate order to attain finality. At that time Smt.Jessy Felix should have approached the Government if she were aggrieved by Exhibit P5. The above contention which is urged before me by Mr.Anand, learned standing counsel for the Corporation is technically correct, but I will immediately observe that I find some force in the submission of Mr.T.I.Daniel, counsel for the petitioner that a building which does not have the direct front age of any main road and muchless the front age of the Chittoor road as alleged by the corporation cannot be expected to have this high an annual rental value.

I do not however propose to decide the issue finally. The petitioner's statutory remedy is to go for a revision against the order of the standing committee, Exhibit P5. The Tribunal for Local Self Government Institutions will entertain a revision petition if one is filed by the writ petitioner within one month of the revision petitioner receiving copy of this judgment. Once the revision petition is received on file, the Tribunal will dispose of the same in accordance with law at the Tribunal's earliest, and at any

rate within three months of receiving the revision on file. The payments already made by the writ petitioner upon coercive process issued by the Corporation in that regard will be subject to the final decision to be taken by the Tribunal.

Writ petition is disposed of as above. No costs.

PIUS C.KURIAKOSE, JUDGE

Rp